

REMARKS

The Applicants thank the Examiner for the thorough consideration given the present application. Claims 4, 8, 16, and 18 are canceled herein without prejudice to or disclaimer of the subject matter set forth therein. Claims 1-3, 5-7, 9-15, 17, and 19-24 are pending, of which claims 1, 2 and 9-15 are withdrawn. Claim 17 is amended and claims 21-24 are added. Claims 1, 3, 9, 11, and 14 are independent. The Examiner is respectfully requested to reconsider the rejections in view of the amendments and remarks set forth herein.

Objection to the Drawings

The Examiner has objected to FIG. 6 as containing descriptive wording. In response, the Applicants have attached one Replacement Sheet addressing the issues pointed out by the Examiner, and to also properly designate FIGS. 6A-6F. Two additional Replacement Sheets have been attached in order to properly designate FIGS. 10A, 10B, 14A, and 14B.

Reconsideration and withdrawal of this objection are respectfully requested.

Claim for Priority

The Examiner has not acknowledged the Applicants' claim for foreign priority based on Japanese Patent Application No. 2002-111943 and domestic priority based on PCT/JP03/04681. Clarification is requested in the next official communication.

Information Disclosure Citation

Applicants thank the Examiner for considering the reference supplied with the Information Disclosure Statements filed October 14, 2004 and April 15, 2005, and for providing Applicants with an initialed copies of the PTO forms filed therewith. The Examiner states that no English copy of CN 1032029-A was included with the IDS filed on May 16, 2006. In response, the Examiner is hereby advised that EP 0308129A is a counterpart of CN 1032029-A. It is not necessary to file an English Abstract for CN 1032029-A in view of the fact that the Examiner considered this patent when he considered EP 0308129A.

Restriction Requirement

The Examiner has made the Restriction Requirement final, and has withdrawn claims 1, 2, and 9-15 from further consideration. The Applicants reserve the right to file one or more divisional applications directed to claims 1, 2, and 9-15 at a later date if so desired.

Claim Objections

The Examiner has objected to claims 4, 8, 16, and 18 because of several informalities. In order to overcome this objection, the Applicants have canceled claims 4, 8, 16, and 18 thereby addressing the issues pointed out by the Examiner. Listings of botanical names are set forth in each of added claims 21-24. Reconsideration and withdrawal of this objection are respectfully requested.

Amendments to the Specification

Paragraphs [0045], [0049], [0053], [0063], [0074], and [0078] have been amended merely to properly identify FIGS. 6A-6F, 10A, 10B, 14A, and 14B in the Drawings.

Rejection Under 35 U.S.C. § 112, second paragraph

Claim 8 stands rejected under 35 U.S.C. § 112, second paragraph. This rejection is respectfully traversed.

In order to overcome this rejection, the Applicants have canceled claim 8. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Rejections Under 35 U.S.C. §102(b) and §103(a)

Claims 3, 5, and 8 stand rejected under 35 U.S.C. §102(b) as being anticipated by Tanklevsky et al. (U.S. 6,306,645);

claims 3, 5-8, 19, and 20 stand rejected under §103(a) as being unpatentable over Akai (U.S. 6,314,678) in view of Tanklevsky et al.; and

claims 3, 4, and 16-18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Akai in view of Harrison et al. (WO 00/63400);

These rejections are respectfully traversed.

Arguments Regarding Patentability of Independent Claim 3

As the Examiner points out, Akai discloses cultivation of plants with a fired microporous body. However, Akai does not disclose that large scale of plants for transformation are cultivated and transformed with an apparatus with a more simplified

structure than that of Akai. In fact, concept of plant transformation with the apparatus and principle of Akai are not found in the Akai disclosure and, therefore, claims are not anticipated by Akai.

In addition, Tanklevsky et al. merely relates to a growth chamber for tissue culture. There is described the phrase "propagation explant" on column 3, line 5 of Tanklevsky et al., but according to Merriam-Webster's Online Dictionary, the term "explant" is defined as "to remove (living tissue) especially to a medium for tissue culture". The present invention of claims relates to cultivation of plants from seeds to one at a stage suitable for transformation and transformation of plants according to an in-planta method and, not to transformation of cultured tissues having no root. The plants can be cultivated by absorbing nutrition from the microporous body through its root. Therefore, the present invention is entirely different from that of Tanklevsky et al.

Moreover, the Examiner states that "Tanklevsky et al. invention may also be used for plant transformation" (page 8, lines 20-21 in the Office Action), but there is merely described transformation of "cells" (column 8, lines 8-12 of Tanklevsky et al.). Therefore, the present invention relating transformation of "plant bodies" is not disclosed therein.

In addition, the Examiner states that Harrison et al. (WO 00/63400) discloses a method for transformation of plants with Agrobacterium, and that the present invention is obvious to those skilled in the art to modify the apparatus as taught by Akai and to use vacuum infiltration to introduce Agrobacterium to the plants as taught by Harrison et al. However, since the concept of plant transformation utilizing the invention of Akai is not

taught or suggested, there is no motivation of combination of Alai and Harrison et al. and, therefore, the present invention is not obvious over Akai in view of Harrison et al.

At least for the reasons explained above, the Applicants respectfully submit that the combination of elements as set forth in independent claim 3 is not disclosed or made obvious by the prior art of record, including Tanklevsky et al., Akai, and Harrison et al.

Therefore, independent claim 3 is in condition for allowance.

The Examiner will note that dependent claims 2, 4, 5, and 9 are amended to place them in better form, and dependent claims 11-15 are added to set forth additional novel features of the invention.

All dependent claims are in condition for allowance due to their dependency from allowable independent claims, or due to the additional novel features set forth therein.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. §103(a) are respectfully requested.

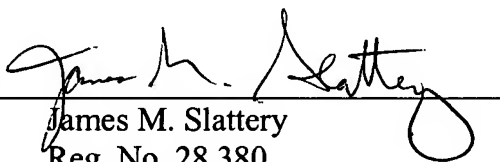
CONCLUSION


All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. It is believed that a full and complete response has been made to the outstanding Office Action, and that the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, he is invited to telephone Carl T. Thomsen (Reg. No. 50,786) at (703) 208-4030 (direct line).

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,
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Attachments:

- Three Sheets of Replacement Drawings (FIGS. 6A-6F, 10A, 10B, 14A, and 14B)